

REMARKS

This Amendment/RCE is filed in response to the Office Action dated August 24, 2004. All rejections are respectfully traversed. A petition for a three-month extension of time together with the appropriate fee is also enclosed herewith. In addition, the fee for a Request for Continued Examination is enclosed herewith. Therefore, Applicants respectfully request reconsideration of the claims as amended, and arguments presented herein.

Applicant acknowledges entry of the 5/24/04 amendment, noted at Paragraph 1, and the acceptance of the replacement drawings, as noted in Paragraph 2. With respect to Paragraph 3 this current amendment conforms to the revised amendment practice.

The Claims

Claims 20-28 are now pending in the application. Claims 1-19 have been canceled.

35 USC §102(b)

In paragraphs 4-5 of the Official Action, claim 20 is rejected under 35 U.S.C. § 102(b) as being anticipated by Volz, United States Patent # 1,409,501. Examiner states that Volz discloses a gravity driven steerable vehicle for use on snow covered terrain comprising: (re: claim 20)

a chassis (1) having a front, rear, and underside and a topside;
a rider riding surface on the top side configured to cause a rider on the surface to be oriented in a prone face down, face forward position (refer lines 61-66);
means (2) for attaching a rear axle assembly (3) substantially at the chassis rear (refer lines (35-37);
means (5) for mounting a front axle assembly (6) at the chassis front (refer lines 37-40);
means (5) for steering the vehicle by the rider (refer lines 61-66);
two rear hub and spindle assemblies (11, 12, and 14 (refer lines 51-57); wherein the ends of the axles 3, 6 serve as spindles (refer lines 42-46, refer lines 47-48); integral with the rear axle assembly, one rear hub and spindle assembly at each end of the rear axle assembly;

and two front hub and spindle assemblies integral with the front axle assembly, one front hub and spindle assembly at each end of the front axle assembly; and
means for attaching one ski (10) assembleable to each of the two rear hub and spindle assemblies and to each of the two front hub and spindle assemblies (refer lines 46-61).

Applicants claim a chassis that is configured to cause a rider to be oriented in a prone, face down, face forward position. Claim 20 has been amended to recite a means for orienting a rider in a prone, face down, face forward position. Structure for this means is recited in new claim 29, and supported in the original specification and drawings. Element 14 is the rider surface. The incline of the rider surface 14 is clearly shown, for example in Figures 1A, 2, 3, 6, 11, 12 and 13.

Thus, claim 20 contains at least one element not disclosed or claimed in Volz - a means for orienting a rider in a prone, face down, face forward position, a structure of which is provided in new claim 29. The Volz device, as Examiner points out, specifies no particular riding orientation. The present invention, however, specifically discloses and claims structure that orients a rider in a prone, face down, face forward position. Therefore, Volz does not anticipate Applicants' claim 20 a rejection under 35 U.S.C. §102(b) is inappropriate. Applicants therefore respectfully request that Examiner withdraw the rejection of claim 20 under 35 USC §102(b).

35 USC §103(a)

In paragraphs 6-14 of the Official Action claims 20-28 are rejected under 35 U.S.C. §103(a). Applicant notes that paragraph 11 is simply a duplicate of paragraph 10.

In paragraph 7, claim 21 is rejected under 35 U.S.C. §103(a) as being unpatentable over Volz in view of Redling, United States Patent # 2,353,501 (Redling). Examiner states that Volz discloses all of the features of claim 20 from which claim 21 depends, but lacks explicit disclosure of a braking feature. Examiner states that Redling teaches a snow sled having a manually actuated brake (combination 42, 43, 44). Examiner states that it would have been obvious to one of ordinary skill in the art to have modified the sled of Volz to incorporate a hand

brake in accordance with the teachings of Redling as a safety feature to keep the sled stationary when the rider was entering or exiting from the sled (col. 1, lines 41-45).

Redling discloses a coaster truck with a brake and steering. Nowhere do either Volz or Redling disclose or suggest a chassis topside configured with inclined means to cause or require a rider on said rider riding surface to be oriented in a prone, face down, face forward position. I

In order for a rejection under 35 U.S.C. §103 to be sustained, the Examiner must establish a prima facie case of obviousness. As pointed out in Section 2142 of the MPEP, one of the three criteria to establish a prima facie case of obviousness is that the prior art reference(s) must teach or suggest all the claim limitations. As discussed above by Applicants in the Remarks/Arguments of the 35 U.S.C §102(b) rejections, Volz does not anticipate all the claimed limitations of claim 20. Volz simply has a hard, flat surface on which the rider rides, and does not specify, suggest or teach any particular riding orientation. Further, Redling does not suggest the claimed limitations of claim 20 not anticipated by Volz. In fact, Redling, by virtue of its seat back 48 requires that the rider be in a seated position, NOT a prone position at all. Therefore, Volz combined with Redling is not sufficient to sustain a rejection under 35 U.S.C. §103 for claim 21. Adding some sort of braking mechanism, as taught by Redling, to a sled as taught by Volz would not result in Applicants' claimed invention because neither Volz nor Redling teaches or suggests any sort of inclined means for specifically orienting a rider prone and face down while elevating a rider's chest. Therefore, Applicants respectfully request withdrawal of the rejection of claim 21.

In paragraph 8, claim 22 is rejected under 35 U.S.C. §103(a) as being unpatentable over Volz in view of Dandurand, United States Patent # 2,770,465. Examiner states that Volz discloses all of the features of claim 20 from which claim 22 depends, and that both Volz lacks explicit disclosure of a harness for the rider. Examiner states that Dandurand teaches a harness for securing a rider onto the riding surface of a sled. Examiner states that it would have been obvious to one of ordinary skill in the art to have modified the sled of Volz, to incorporate a harness in accordance with the teachings of Dandurand as a safety measure and to provide a more comfortable ride during maneuvers.

Dandurand discloses a rescue sled having hold down straps 24 retain covering flaps 20, 22 in position when the sled is in use (col. 2, lines 2-3). Nowhere does Volz or Dandurand disclose or suggest a chassis topside configured with a means to cause a rider on said rider riding surface to be oriented in an inclined, prone, face down, face forward position. Neither Volz nor Dandurand discloses a means for harnessing the rider when the rider is positioned, as claimed by Applicants, in a prone, face down, face forward position. In fact, the rider in the sled of Dandurand would almost always be on his or her back, being that the rider in such a sled would be injured.

Because claim 22 depends from claim 20, in order for a rejection under 35 U.S.C. §103 to be sustained, the Examiner must establish a prima facie case of obviousness. As pointed out in Section 2142 of the MPEP, one of the three criteria to establish a prima facie case of obviousness is that the prior art reference(s) must teach or suggest all the claim limitations. As discussed above by Applicants in the Remarks/Arguments of the 35 U.S.C §102(b) rejections, Volz does not anticipate all the claimed limitations of claim 20 – namely the means to orient a rider in a prone, face down, face forward inclined position. Further, Dandurand does not suggest the claimed limitations of claim 20 not anticipated by Volz. Therefore, neither Volz, nor Volz combined with Dandurand, is sufficient to sustain a rejection under 35 U.S.C. §103 for either of claim 22 and Applicants respectfully request withdrawal of the rejection.

In paragraph 9, claim 28 is rejected under 35 U.S.C. §103(a) as being unpatentable over Volz in view of Gibbons, United States Patent # 6,116,622. Examiner states that Volz discloses all of the features of claim 20 from which claim 28 depends, but lacks explicit disclosure of a combination roll bar and tote bail. Examiner states that Gibbons teaches a roll bar and bail (32) for a snow sled. Examiner states that it would have been obvious to one of ordinary skill in the art to have modified the sled of Volz to incorporate a roll bar and bail in accordance with the teachings of Gibbons in order to provide safety in case of the sled's overturning during riding, and whereby the sled could be at least partially lifted for transport when not being used.

Gibbons discloses a sled configured for a seated, upright passenger, having a padded roll bar. Nowhere do either Volz or Gibbons disclose or suggest a chassis topside configured to

cause a rider on said rider riding surface to be oriented in a prone, face down, face forward inclined position with the chest raised.

Because claim 28 depends from claim 20, in order for a rejection under 35 U.S.C. §103 to be sustained, the Examiner must establish a prima facie case of obviousness. As pointed out in Section 2142 of the MPEP, one of the three criteria to establish a prima facie case of obviousness is that the prior art reference(s) must teach or suggest all the claim limitations. As discussed above by Applicants in the Remarks/Arguments of the 35 U.S.C §102(b) rejections, Volz does not anticipate all the claimed limitations of claim 20 – namely the means for orienting a rider in a prone, face down, face forward inclined position. Further, Gibbons does not disclose or suggest in any way the claimed limitations of claim 20 not anticipated by Volz. In fact, as with Redling, the rider of the Gibbons sled must be in a seated position, not a prone position. Thus, Gibbons actually teaches away from Applicants' means for orienting a rider in an inclined prone position. Therefore, Volz combined with Gibbons is not sufficient to sustain a rejection under 35 U.S.C. §103 for claim 28 and Applicants respectfully request withdrawal of the rejection.

In paragraph 10, claim 23 is rejected under 35 U.S.C. §103(a) as being unpatentable over Volz in view of Redling (US 2,353,501 and further in view of Dandurand (US 2,770,465). Examiner states that the combination of Volz and Redling discloses all of the features of claim 21 from which claim 23 depends, but that the combination of Volz and Redling lacks explicit disclosure of a harness for the rider. Examiner further states that Dandurand teaches a harness for securing a rider onto the riding surface of a sled, and that it would have been obvious to have modified the sled of the combination of Volz and Redling to incorporate a harness in accordance with the teachings of Dandurand in order to secure the rider onto the riding surface as a safety measure and to provide a more comfortable ride during maneuvers.

Dandurand discloses a rescue sled having hold down straps 24 to retain covering flaps 20, 22 in position when the sled is in use (col. 2, lines 2-3). Nowhere does any of Volz, Redling, or Dandurand disclose or suggest a chassis topside configured to cause a rider to be oriented in a prone, face down, face forward inclined position. In fact, as noted above, Redling actually requires that the rider be in an upright, seated position, so there is actually a teaching away from

riding in a prone, face down, face forward position. In addition, Dandurand impliedly teaches away from a prone, face-down, face forward position as well, since the rider in the sled of Dandurand would be injured and on his/her back with feet forward. Thus, adding the teachings of Redling and Dandurand to the teachings of Volz would not and could not result in Applicants' claimed invention having a harness for a rider in an inclined prone position.

Because claim 23 depends from claim 21 and ultimately from claim 20, in order for a rejection under 35 U.S.C. §103 to be sustained, the Examiner must establish a prima facie case of obviousness. As pointed out in Section 2142 of the MPEP, one of the three criteria to establish a prima facie case of obviousness is that the prior art reference(s) must teach or suggest all the claim limitations. As discussed above by Applicants in the Remarks/Arguments of the 35 U.S.C §102(b) rejections, Volz does not anticipate all the claimed limitations of claim 20 – namely the means for orienting a rider in a prone, face down, face forward inclined position. Further, neither Redling nor Dandurand discloses or suggests in any way the claimed limitations of claim 20 not anticipated by Volz. In fact, the rider of the Redling sled must be in an upright, seated position, not a prone position, and the riders of the Dandurand sled would be on their backs, feet forward. Thus, both Redling and Dandurand teach away from Applicants' means for harnessing a rider oriented in an inclined prone position. Therefore, Volz combined with Redling and Dandurand is not sufficient to sustain a rejection under 35 U.S.C. §103 for claim 23 and Applicants respectfully request withdrawal of the rejection.

In paragraph 12 claim 24 is rejected under 35 U.S.C. §103(a) as being unpatentable over Volz in view of Berthold et al., (US 4,291,892). Examiner states that Volz discloses all of the features of claim 20 from which claim 24 depends, but that Volz lacks explicit disclosure of shock absorbing means between the front attached skis and the front axle assembly. Examiner further states that Berthold teaches a gravity driven steerable snow vehicle having shock absorbing means between the front skis and the front axle assembly, and that therefore it would have been obvious to have modified the sled of Volz to have shock absorbers on the front skis between the skis and the axles in accordance with the teachings of Berthold in order to cushion the ride over uneven terrain as suggested by the reference at column 1, lines 22-27.

Berthold discloses an undercarriage that is of relatively low height, having a shock absorber 14 that cannot be mounted vertically or even near-vertically (col. 4, lines 34-35), and is located on each runner as shown in Berthold's FIGs. 1, 3, and 4. Nowhere does Berthold disclose a means for absorbing shock *between front and/or rear attached skis and front and/or rear axle assemblies*. The shock absorbers of Berthold are located *on each runner*. There is no suggestion explicit or implicit in Berthold to locate shock absorbing means between front and/or rear axles or skis. In addition, neither Volz nor Berthold disclose or suggest a chassis topside configured with means to cause a rider on said rider riding surface to be oriented in an inclined prone, face down, face forward position. Therefore, because all of the limitations of claim 20, from which claim 24 depends, are NOT met by Volz, adding the teaching of shock absorbing means, as taught by Berthold (especially means located on each runner versus between front and or rear axle assemblies and/or skis of the present invention), can not result in Applicants' invention.

Because claim 24 depends from claim 20, in order for a rejection under 35 U.S.C. §103 to be sustained, the Examiner must establish a prima facie case of obviousness. As pointed out in Section 2142 of the MPEP, one of the three criteria to establish a prima facie case of obviousness is that the prior art reference(s) must teach or suggest all the claim limitations. As discussed above by Applicants in the Remarks/Arguments of the 35 U.S.C §102(b) rejections, Volz does not anticipate all the claimed limitations of claim 20 – namely the means for orienting a rider in a prone, face down, face forward inclined position. Further, Berthold does not disclose or suggest in any way the claimed limitations of claim 20 not anticipated by Volz. Therefore, Volz combined with Berthold is not sufficient to sustain a rejection under 35 U.S.C. §103 for claim 24 and Applicants respectfully request withdrawal of the rejection.

In paragraph 13 claim 25 is rejected under 35 U.S.C. §103 as being unpatentable over Volz in view of Dandurand in further view of Berthold, et al. Examiner states that the combination of Volz and Dandurand discloses all of the features of claim 22 from which claim 25 depends, except that the combination lacks explicit disclosure of shock absorbing means between the front attached skis and the front axle assembly. Examiner further states that

Berthold teaches a gravity driven steerable snow vehicle having shock absorbing means between the front skis and the front axle assembly.

As discussed above, Volz does not meet all of the limitations of claim 20, from which claims 22 and 25 ultimately depend. None of the cited references teaches anything whatsoever about means for orienting a rider in an inclined prone, face down, face forward position. Regardless of Dandurand's teaching of harness means (which in fact are used to restrain an injured rider on his/her back, feet forward) or Berthold's teaching of shock absorbing means (Berthold discloses an undercarriage that is of relatively low height, having a shock absorber 14 that cannot be mounted vertically or even near-vertically (col. 4, lines 34-35), and is located on each runner as shown in Berthold's FIGs. 1, 3, and 4, and nowhere does Berthold disclose a means for absorbing shock *between front and/or rear attached skis and front and/or rear axle assemblies*. The shock absorbers of Berthold are located *on each runner*. There is no suggestion explicit or implicit in Berthold to locate shock absorbing means between front and/or rear axles or skis.) none of the references alone or in combination teach a vehicle with a rider surface that has means to specifically orient a rider in an inclined prone position.

Because claim 25 depends from claim 22 which depends from claim 20, in order for a rejection under 35 U.S.C. §103 to be sustained, the Examiner must establish a prima facie case of obviousness. As pointed out in Section 2142 of the MPEP, one of the three criteria to establish a prima facie case of obviousness is that the prior art reference(s) must teach or suggest all the claim limitations. As discussed above by Applicants in the Remarks/Arguments of the 35 U.S.C §102(b) rejections, Volz does not anticipate all the claimed limitations of claim 20 – namely the means for orienting a rider in a prone, face down, face forward inclined position. Further, neither Dandurand nor Berthold discloses or suggests in any way the claimed limitations of claim 20 not anticipated by Volz. Therefore, Volz combined with Dandurand and Berthold is not sufficient to sustain a rejection under 35 U.S.C. §103 for claim 25 and Applicants respectfully request withdrawal of the rejection.

In paragraph 14, claims 26-27 are rejected under 35 U.S.C. §103(a) as being unpatentable over Volz in view of Redling, in view of Dandurand, and further in view of Berthold et al. Examiner states that Volz, Redling and Dandurand disclose all of the features of claim 23 from which claims 26-27 depend. Examiner further states that the combination of Volz, Redling and Dandurand lacks explicit disclosure (re: claim 26) of shock absorbing means between the front attached skis and the front axle assembly. Examiner states that Berthold teaches a gravity driven steerable snow vehicle having shock absorbing means between the front skis and the front axle assembly. Examiner then states that it would have been obvious to one of ordinary skill in the art to have modified the combination of Volz, Redling and Dandurand, to have shock absorbers on the front skis between the skis and the axles in accordance with the teachings of Berthold in order to cushion the ride over uneven terrain (col. 1, lines 22-27). Examiner further states that it would have been obvious to one of ordinary skill in the art to have further modified the sled having shock absorbing means attached between the skis and axle assemblies at the front of the sled to include, as well, shock absorbing means attached between the skis and axle assemblies at the rear of the sled, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art.

As discussed above, *none* of the cited references teaches or suggests any means to orient a rider in an inclined prone, face down, face forward position. Specifically Redling teaches away from such an orientation by having a seat back and thus requiring the rider to be in an upright, seated position. While Dandurand does disclose some harness or restraint means, it is for riders lying on their backs, feet forward. And, as noted above, Berthold discloses an undercarriage that is of relatively low height, having a shock absorber 14 that cannot be mounted vertically or even near-vertically (col. 4, lines 34-35), and is located on each runner as shown in Berthold's FIGs. 1, 3, and 4, not between front/and or rear skis and front and/or rear axle assemblies. Nowhere do any of Volz, Redling, or Dandurand disclose or suggest a chassis topside configured with means to cause a rider on said rider riding surface to be oriented in an inclined prone, face down, face forward position.

Because claims 26-27 depend ultimately from claim 20, in order for a rejection under 35 U.S.C. §103 to be sustained, the Examiner must establish a *prima facie* case of obviousness. As

pointed out in Section 2142 of the MPEP, one of the three criteria to establish a prima facie case of obviousness is that the prior art reference(s) must teach or suggest all the claim limitations. As discussed above by Applicants in the Remarks/Arguments of the 35 U.S.C §102(b) rejections, Volz simply and plainly does not anticipate all the claimed limitations of claim 20. Further, none of Redling, Dandurand, nor Berthold suggest the claimed limitations of claim 20 not anticipated by Volz. Therefore, Volz combined with Dandurand and Berthold is not sufficient to sustain a rejection under 35 U.S.C. §103 for claims 26 and 27 and Applicants respectfully request withdrawal of the rejections.

In view of the absence from any cited patent of Applicants' claimed elements as set forth above in the claims as amended, Applicants respectfully urge that Volz, Redling, Gibbons, Dandurand, and Berthold, separately or in combination, are legally insufficient to render the presently claimed invention obvious under 35 U.S.C. § 103.

Double Patenting

In paragraphs 15-16 claims 20-27 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-4 and 9 of United States Patent # 6,276,700 in view of Volz. Examiner states that although the conflicting claims are not identical, they are not patentably distinct from each other because the differences, using skis instead of wheels as the support elements for the vehicle, represent obvious modifications taught by Volz wherein it would have been obvious to one of ordinary skill in the art to have substituted skis in place of the wheels at the front and rear of the vehicle as suggested by Volz at lines 11-20.

Volz suggests that his coaster, which includes a crossbar, two axles, a sled bed, and wheels or runners, may be used with either wheels or with runners, which, Volz discloses, are attached to the coaster by means of cotter pins. Nowhere does Volz teach or suggest, implicitly or explicitly front or rear hub and spindle assemblies integral with a front or rear axle(s) to which the wheels or runners of his coaster could be attached, and nowhere do either Volz or Way disclose or suggest a ski. In addition, neither Volz nor Way suggest skis, in combination with front/rear hub and spindle assemblies integral with front/rear axle(s), in combination with a means for orienting a rider in an inclined prone, face down, face forward position.

Because claims 21-27 depend, ultimately, from claim 20, in order for a rejection under the judicially created doctrine of obvious-type double patenting to be sustained, the Examiner must establish a prima facie case of obviousness. As pointed out in Section 2142 of the MPEP, one of the three criteria to establish a prima facie case of obviousness is that the prior art reference(s) must teach or suggest all the claim limitations. As discussed above, neither Volz nor Way suggests all the claimed limitations of claim 20. Therefore, Volz combined with Way is not sufficient to sustain a rejection under the judicially created doctrine of obviousness-type double patenting for any of claims 20-27 and Applicants respectfully request withdrawal of the rejections.

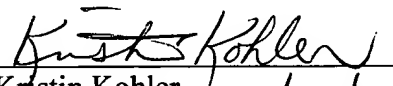
Conclusion

All independent claims are believed to be in condition for allowance. All dependent claims are believed to depend upon allowable independent claims, and therefore in condition for allowance. Applicants invite Examiner's input in order to put the case in condition for allowance and provide the following contact information. GEORGE W. DISHONG (603) 532-7206 / Kristin Kohler (301) 203-8880.

Respectfully submitted,
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Date: February 24, 2005

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